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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,131	03/31/2004	Ralf Ehret	13906-180001 / 2004P00204	9171
32864 7590 09/23/2010 FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER JARRETT, SCOTT L	
			ART UNIT 3624	PAPER NUMBER
			NOTIFICATION DATE 09/23/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/815,131	Applicant(s) EHRET ET AL.	
	Examiner SCOTT L. JARRETT	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-9,11-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-9,11-13 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Non-Final Office Action is in response to Applicant's amendment filed July 21, 2010. Applicant's amendment amended claim 8 and added new claims 17-21; claims 3-4, 10 and 14 being previously canceled. Currently claims 1, 2, 5-9, 11-13 and 15-21 are pending.

Response to Amendment

2. The 35 U.S.C. 101 rejection of claims 8-9, 11-13 and 15-16 are withdrawn in light of applicant's amendments to claim 8.

Response to Arguments

3. Applicant's arguments with respect to claims 1, 2, 5-9, 11-13 and 15-16 have been considered but are moot in view of the new ground(s) of rejection.

Specification

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: System and Method for Scheduling Concrete and Non-Concrete Resource Requests.

Claim Objections

5. Claim 7 is objected to because of the following informalities. Claim 7 recites scheduling is done to determine a utilization of a resource wherein it is noted that the claim as currently recited does not actually determine a resource utilization. For the purposes of examination the examiner assumes applicant will amend the claim to positively recite that the system/method actually determines the resource's utilization.. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 17 -20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claims 17 and 19, Claims 17 and 19 recite the limitation "the specific task" in Claim 1 and 8 respectively. There is insufficient antecedent basis for this limitation in the claim.

Examiner interpreted the claims to read "a specific task" for the purposes of examination. Appropriate correction required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 2, 5-9, 11-13 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donnelly et al., U.S. Patent N. 6,049,776 in view of official notice.

Regarding Claims 1 and 8 Donnelley et al. teach a system and method comprising (Figures 14, 17-20, 52-54; Columns 33-34):

- receiving, at a system, a first scheduling request (e.g. search and assignment) for a resource, the request specifying that the resource is to be scheduled for a requested amount of time (total hours, number of days, etc.; Column 27, Lines 42-68; Column 28, Lines 1-8; Column 33, Numbers 4, 8; Column 34, Numbers 14, 15) sometime within a requested time period (timeframe, start/end time; Column 10, Lines 22-53; Column 12, Lines 48-63; Column 18, Lines 6-10; Column 27, Lines 12-16; Column 34, Number 14), the request amount of time being less than a maximum time that the resource is usable (available, has capacity, etc.; employee calendar, restrictions, default working days/times; Column 12, Lines 58-62; Column 33, Lines 1-5; Numbers 6, 7, 8; Column 34, Number 16) and the resource has an availability (usage, capacity, utilization, etc.) less than 100 percent (full, at capacity, full reserved/booked,

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etc.; available days, partial day; Figures 8-12; Column 15, Lines 30-35; Column 28, Lines 10-15; Column 34, Numbers 15, 16);

- receiving, at a system, a second scheduling request (e.g. update schedule assignment or change tentative assignment/commitment to actual/scheduled) to for the resource that refines (updates, revises, changes, modifies, etc.) the first scheduling request (Column 10, Lines 37-53; Column 13, Lines 7-14; Column 14, Lines 65-68; Column 16, Lines 57-60; Column 19, Lines 1-3; Figures 8, 17, 54), the second request specifying that a portion of the requested amount of time be scheduled in a specific time slot (day, time, range, etc.) within the requested time period, the portion being less than the requested amount of time;

- scheduling, by the system, in an electronic schedule the portion of the requested amount of time in the specific time slot (day, month, year) such that it causes the available of the resource for the specific time slot to be zero percent (i.e. fully booked/reserved/utilized, no longer available; scheduled, % Availability = 0%; Column 15, Lines 3-68; Column 26, Lines 33-35; Column 29, Lines 19-21, 34-43; Figures 8-13, 44);

- scheduling, by the system, in an electronic schedule a remaining portion of the requested amount of time within the requested time period, except within the specific timeslot; such that the resource's availability for a remaining portion of the requested time period is between 0 and 100 percent (e.g. partial days, % availability; Column 12, Line 58; Column 15, Lines 3-9, 31-35; Column 26, Lines 33-35; Column 28, Lines 9-15;

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Column 29, Lines 19-21, 34-43; Column 32, Lines 65-68; Column 33, Lines 1-5; Figures 8-13, 44).

Donnelley et al. does not expressly limit the refining the first request to refinements that only shorten (a portion) the first resource request as claimed. Specifically Donnelley et al. does not expressly teach that the *portion being less than the requested amount of time*.

Official notice is taken that updating/refining resource requests such that the update/refinement shortens, lengthens or leaves the duration/length) portion of the original (first) resource request is old and very well know.

The examiner project managed a plurality of information technology consulting projects and as such personally experience well prior to the filing of the instant application the refinement of resource requests both before/after the sale of the engagement, during execution of the engagement or the like. On several occasions assignments for which I was tasked had their duration/length shorten due to a plurality drivers including such drivers as budget, timing and the like.

Additionally support for this well known fact can be found in at least the following references (Miller, U.S. Patent NO. 5,408,663; Collins et al., U.S. Patent No. 5,623,404 and Lesaint et al., U.S. Patent No. 6,578,005).

It would have been obvious to one skilled in the art at the time of the invention that the system and method as taught by Donnelley et al., with its ability to refine any portion of a resource request (e.g. making the request smaller, larger or leaving it the same) would have benefited from the second request specifying that a portion of the requested amount of time be scheduled in a specific time slot (day, time, range, etc.) within the requested time period, the *portion being less than the requested amount of time* in view of the teachings of official notice, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Further since there are a finite number of identified, predictable potential solutions (i.e., the need to refine resource requests to make them shorter or longer) to the recognized need and one of ordinary skill in the art would have pursued the known potential solutions with a reasonable expectation of success.

Regarding Claim 2 Donnelley et al. teach a system and method wherein the resource is a person, machine, tool or workstation (Abstract; Figures 14, 17-20, 53-54).

Further it is noted that the intended use and/or the specific resource being requested merely recites non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific type of

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resource requested. Further, the structural elements remain the same regardless of the specific type of resource requested. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Regarding Claim 5 Donnelley et al. teach a system and method wherein the first scheduling request specifies that the resource be scheduled for a predetermined number of hours (number of hours, total number of hours; Figures 17-20, 53-54; Column 35 Numbers 2, 6; Column 34, Numbers 14, 15; Column 33, Lines 1-15, Number 5; Column 28, Lines 3-9; Column 27, Lines 57-68) within a time period that includes a specific time range (Column 33, Numbers 5, 6, 7; Column 34, Numbers 14, 15, 16; Column 35, Number 5; Column 27, Lines 12-17).

Regarding Claim 6 Donnelley et al. teach a system and method wherein the second scheduling request includes requesting that a portion of the predetermined number of hours from the first request be scheduled for the specific time slot on a specific date within the date range (Figures 17-20, 52-54; Columns 33-34; Column 27, Lines 11-16, 43-52, 58-68; Column 26, Lines 40-65).

Regarding Claim 7 Donnelley et al. teach a system and method wherein the scheduling is done to determine a utilization (availability) of a resource (Abstract; Figures 8-13, 52; Column 15, Lines 3-55).

Regarding Claims 9 and 11 Donnelley et al. teach a system and method further comprising a resource planning application (software, routine, code, etc.) to receive all time slots in which the resource is usable (available, has capacity, not booked, etc.; Figures 8-13, 52; Column 15, Lines 3-55) within the requested time slots, the usable/availability information stored in a database (Column 2, Lines 52-55; Column 9, Lines 26, 44; Figures 1, 2).

Regarding Claim 12 Donnelley et al. teach a system and method further wherein the resource's availability information is maintained as a set of time intervals (days, hours, months, shifts, etc.) in the database (Figures 1, 2, 8-13).

Regarding Claim 13 Donnelley et al. teach a system and method further comprising: referring, by the system, to the resource's availability to verify the availability of the resource for a specific time slot on a specific data is sufficient for the second scheduling request (e.g. conflict resolution/notification; availability search/assignment; Column 18, Lines 30-43; Column 21, Lines 50-68; Column 22, Lines 1-8; Columns 33-34; Figures 28, 29).

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Regarding Claims 15 and 16 Donnelley et al. teach a system and method wherein the first/second scheduling requests are received from the same source (e.g. resource managers; Figures 3, 7-20, 52-54; Abstract; Column 12, Lines 45-68; Column 14, Lines 56-68).

Regarding Claims 17 and 19 Donnelley et al. teach a system and method wherein the first request comprises a non-concrete (unconfirmed, proposed, tentative, subjective, forecasted, promised, potential, temporary, draft, etc.) scheduling request that causes the resource to be non-concretely (tentatively, placeholder, etc.) reserved (scheduled, booked, etc.) to perform a specific task (work, effort, activity) for the request amount of time anytime within the request time period (frame; Figures 14, 17-20, 54; Column 10, Lines 35-38, 49-54; Column 13, Lines 8-13; Column 19, Lines 1-3).

Regarding Claims 18 and 20 Donnelley et al. teach a system and method wherein the second resource request comprises a concrete (confirmed, approved, final, settled, etc.) scheduling request that causes the non-concrete request to be refined (updated, changed, modified, etc.) such that resource is concretely reserved (booked, scheduled, allocated, etc.) to perform a portion of the specific task within the specific time period (Figures 14, 17-20, 54; Column 10, Lines 35-38, 49-54; Column 13, Lines 8-13; Column 19, Lines 1-3).

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Regarding Claim 21 Donnelley et al. teach a system and method wherein the first scheduling request is for the resource to perform a specific task (assignment, job, activity, work, course, etc.) and the second scheduling request specifies that a portion of the requested amount of time for the resource to perform the task is to be scheduled in the specific time slot within the requested time period (Figures 23, 53, 54; Column 17, Lines 43-49; Column 29, Lines 10-22).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT L. JARRETT whose telephone number is (571)272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571.272.6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott L Jarrett/
Primary Examiner, Art Unit 3624